

1 completed, they had a 55 address on it. So all the  
2 documentation and the marketing and everything was changed  
3 to 55 from 35.

4 Q So --

5 A So what I did is that when I looked at it as 35  
6 and then when I talked with Mike Lehmkuhl which was on other  
7 documentation, everything was internally -- like, for  
8 example, Mr. Milstein or anybody internally, they had  
9 marketing information that would all say 55. But I wasn't -  
10 - nobody knew but me on the technical part of it that it was  
11 done under 35. So some of those I corrected it for them to  
12 understand this is not a different building. Same with 765  
13 or 565.

14 So -- and another one was 441 East Ninety-second  
15 Street. Originally, I had it at -- I -- that's the one that  
16 I did all the technical information. But that building is  
17 in corner of York Avenue and 441. Again, when we started  
18 it, that was the address that was provided. And then later  
19 on when they commissioned that, they had a different address  
20 on it which the marketing had.

21 So some of those have to be somehow come together.  
22 But the fact is that the coordination, geographic,  
23 everything the same. So we changed the internal letters to  
24 make sure all -- people understand 441 East Ninety-second  
25 the same as 1775 York Avenue.

1 Q Okay.

2 A Those are the ones -- not the actual typing  
3 errors.

4 Q Okay. I was just curious as to why -- and I think  
5 you've explained -- as to why it is that you in effect  
6 corrected these addresses which --

7 A That is correct.

8 Q -- they come out of I guess your files.

9 A That's correct.

10 Q Now, the second paragraph of this, am I -- is what  
11 you're saying here that -- that Pepper & Corazzini are going  
12 to file STA requests for these paths that are listed on  
13 Exhibit 35 which were already operational?

14 A The second paragraph?

15 Q The one that begins, "However."

16 A Yes, that's what I mean. Special temporary  
17 authority will be filed.

18 Q And so you -- as far as you know, you sent this  
19 memorandum to the people who are identified as CCs as well  
20 as to Edward Milstein?

21 A Well, logically, yes. I don't remember now, but  
22 if I write a memorandum, I'll send them.

23 Q But your general practice is that if you indicate  
24 that somebody is a CC on a memorandum, that you send a copy  
25 of that memorandum to that person?

1           A     I don't directly hand it to them. But generally  
2 when I do that, I review it. Then the secretary will copy  
3 it, file it and send it. I don't personally do that.

4           Q     Okay. Now, I want to ask you about the last  
5 sentence of this memorandum, Exhibit 35, that's on the  
6 second page.

7           A     Yes, I'm looking at it.

8           Q     And I want you to explain, if you can, what you  
9 meant by the statement, "According to our FCC lawyer, we  
10 expect to receive the final licenses within the month of  
11 May." Was that the final licenses for all of these paths  
12 that are on this list or some other set of final licenses?

13          A     From what I recall, I referred to that emission  
14 designator. And after I talked to Mike Lehmkuhl, he  
15 mentioned that somewhere in the second month of 1994, I  
16 would say February or so, when the correction came for those  
17 paths -- the technical correction came, he applied for the  
18 files. And then when I discussed with him about applying  
19 for the STAs which we did on May 3rd and -- I mean all the  
20 STAs that went out, he was the one that told me that he  
21 expects to receive the final licenses within the month of  
22 May.

23                     And that's what I -- based on my conversation,  
24 this is my assumption. And based on that conversation with  
25 Mike Lehmkuhl, that we were -- he was expecting to have

1 licenses by May although at the beginning of the letter, I  
2 mentioned we are putting special temporary authority rather  
3 than just waiting to go get it. That's what the practice  
4 was we just tried to change.

5 Q Now, when you -- when you wrote this memorandum,  
6 you were aware of the fact that Time Warner had petitioned  
7 to deny a large number of these applications. In fact, that  
8 was -- learning that information was what you got -- you  
9 started in your investigation, isn't that correct? Learning  
10 that Time Warner had petition to deny various license  
11 applications?

12 A Well, I've said that five or six times this  
13 morning, that it was information came up and based on that,  
14 I investigated it. I talked to Mike Lehmkuhl and I found  
15 some of those. And those are before that -- that's the same  
16 question you've asked a couple of times.

17 Q No, I understand that I've asked it --

18 A I mean, I'm sorry. The only thing is that I don't  
19 know if there's any other question. That's what I'm  
20 understanding from the question that you asked before. If  
21 there's something that I don't understand that I didn't say,  
22 please rephrase it. Then I will answer it.

23 Q Okay. Did -- did you discuss with the lawyer, I  
24 guess it was Mike Lehmkuhl, why he expected that you were  
25 going to receive the final licenses the next month when you

1 had just been talking about the fact that Time Warner had  
2 petitioned to deny applications and those petitions were  
3 holding everything up?

4 A Oh, you mean about -- you're still talking about  
5 this particular letter?

6 Q Yes, sir. I am.

7 A Oh, okay.

8 JUDGE SIPPEL: You mean this, you're talking about  
9 your Number 35.

10 MR. BECKNER: Yes.

11 THE WITNESS: Yes, that's what I'm talking about.

12 JUDGE SIPPEL: That's what you're looking at.

13 THE WITNESS: Yes. This was -- that's what --  
14 that's what I understood from my conversation from him.

15 BY MR. BECKNER:

16 Q That's what he told you. Okay.

17 A Well --

18 Q It didn't strike you as odd that on the one hand,  
19 he was telling you that all kinds of license applications  
20 had been denied because Time Warner had filed petitions to  
21 deny, and yet he was telling you that these emission  
22 designator corrections had already been submitted and you  
23 were going to get licenses the very next month?

24 A Well, again, you adding a lot of things on your  
25 question. When I spoke with him, my question was that why

1 this thing wasn't -- the STA wasn't applied -- I mean this  
2 special temporary authority wasn't filed.

3 Q Right.

4 A And then he told me that it wasn't filed because  
5 the emission designator delayed and because of Time Warner's  
6 petition of January. So he did not apply any STAs for it  
7 because there was no need to do that. And then something in  
8 that phrase.

9 Q Okay.

10 A And then at that point, I told him that apply for  
11 STA. And the other thing is right now when I read these  
12 memos, it's been over two years and I have -- I have a lot  
13 more knowledge than I had at that time. At that time,  
14 getting a license or getting authorization, getting the STA  
15 is the same thing. Right now when I look at this letter, I  
16 look at it different.

17 Q I understand.

18 A I'm not disagreeing with a lot of things you say.  
19 But right now, you have to look at the state of mind that I  
20 had at that point. License, STA, they were all the same at  
21 the time. The fact was the authority. It's just not really  
22 -- I mean, it's up to you, but it's not such a way that I  
23 can now sit there because now my frame of mind is much  
24 different than April 26th after I found out and wrote that.  
25 License, STA, authorization, they were all the same.

1 Q Okay. Well, I accept that. Let me just -- one  
2 last -- since you brought up your state of mind, it is true,  
3 is it not, that on April 26th, 1995 when you wrote this  
4 memorandum, you did understand that you were operating all  
5 but two of these paths listed here without authority to do  
6 so from the FCC?

7 A Yes.

8 Q Okay. And you did understand that you needed to  
9 get that authority from the FCC. So you told Mr. Lehmkuhl  
10 to file STA requests.

11 A Yes, after I discussed that with him. That was --  
12 mostly it was a joint discussion with me and him to find out  
13 about it rather than me finding it and letting him know.  
14 During my conversation with him, we found out. And then  
15 ultimately I told him to apply for the STAs.

16 Q And you shared this information with Edward  
17 Milstein, Peter Price, John Tenety and Anthony Ontiveros.

18 A I don't know about John Tenety. But I talked with  
19 Anthony Ontiveros and -- prior to this letter. And then we  
20 had that meeting.

21 Q Well, the reason I mention John Tenety's name,  
22 sir, is that he's indicated as a CC on this Exhibit 35.

23 A I understand, sir. John Tenety was the  
24 construction type of -- you know, supervising the  
25 construction. And he was -- I needed to let him know just

1 as an FYI. He wasn't -- all I'm trying to say is that John  
2 Tenety wasn't involved in any of these discussions and  
3 findings. It just was a matter of, you know, letting him  
4 know because partially he was -- I will just copy him. And  
5 he was at the time also acting as an operation -- head of  
6 the operations with Mr. Ontiveros. So just as a matter of  
7 FYI.

8 Q All right.

9 A I just want to clear the record with that.

10 MR. BECKNER: Okay. I -- just an aside. It's  
11 noon and I know we wanted to get this Witness on his way. I  
12 just was going to ask a few questions about what's been  
13 marked as Exhibit 36 and then I was going to stop at that  
14 point. I don't know when you wanted to let him go. I know  
15 he has a plane to make.

16 JUDGE SIPPEL: Well, we have to finish what we  
17 have to finish. What -- you say you have a few more  
18 questions?

19 MR. BECKNER: Well, there are a couple of  
20 questions about what's been marked as Exhibit 36. I have  
21 some questions about some other stuff. But I thought  
22 yesterday that we discussed letting him reach his plane that  
23 he has to meet. We don't necessarily have to do so on the  
24 record, but I --

25 JUDGE SIPPEL: Well, let's go off the record then



1 and find out what's going on here.

2 (A discussion was held off the record.)

3 JUDGE SIPPEL: All right. We're going to -- we're  
4 going to finish up with Mr. Beckner's -- this line of  
5 questioning. And then we're going to reconsider what we can  
6 do in terms of this and where he's scheduled. You go ahead  
7 and ask the questions now with respect to your next exhibit,  
8 please, Mr. Beckner.

9 MR. BECKNER: All right. Thank you, Your Honor.

10 BY MR. BECKNER:

11 Q Mr. Nourain, I'd like you to take a look at the  
12 document that's been marked as TW/CV Exhibit 36, that's the  
13 second loose document that you've been handed this morning.

14 A Yes.

15 JUDGE SIPPEL: That's in evidence, by the way.  
16 That is Number 36 now.

17 MR. BECKNER: Yes.

18 BY MR. BECKNER:

19 Q On the -- on the first page of the document,  
20 there's a handwritten note that appears to say, "POP/TO FYI  
21 BN 5/3/95". Is that your writing?

22 A Yes.

23 Q Okay. Can you tell us what that means?

24 A POP is Peter O. Price. And it's slash TO means  
25 Tony Ontiveros.

1 Q Does this -- does this indicate that you sent Mr.  
2 Price and Mr. Ontiveros a copy of this letter? Excuse me?

3 A Yes, that's what it says.

4 Q Okay. And you did that on May 3rd, the date that  
5 you wrote down here?

6 A I actually have the last page -- it says, 5/3/95,  
7 is a fax cover. So I'm sure now this is different than the  
8 other document. I'm sure this thing has a fax cover on it  
9 so it went to him. I sent it.

10 Q Okay. So you sent it to them by facsimile on May  
11 3rd, 1995.

12 A Right. That's also my handwriting.

13 Q And that's your handwriting. Well, now, you sent  
14 it to Mr. Price by fax. Mr. Ontiveros is right there next  
15 to you, so you could just give him a copy.

16 A Either give it to him if he's there or just have  
17 his secretary make a copy and put it in his box.

18 Q And would you have given Mr. Price and Mr.  
19 Ontiveros their copies of this letter on the same day that  
20 you received it do you think?

21 A Yes, the fax shows -- the date of the fax show  
22 given the same day.

23 Q No, no. I -- but my question was is when you got  
24 the letter from the FCC, do you think on the day that you  
25 got the letter, you sent it out to Mr. Price and Mr.

1 Ontiveros?

2 A I can't answer that. I don't know. I -- let me  
3 take a look at it.

4 Q Sure.

5 JUDGE SIPPEL: Let's go off the record.

6 (Off the record.)

7 JUDGE SIPPEL: Okay. We're on the record. Are  
8 you all set, Mr. Nourain?

9 THE WITNESS: Yes, I am. Yes, this seems like it  
10 was one of those letters. The way I look at it is it as for  
11 the denial of the -- some of our applications. And I -- I  
12 would have probably will send that to them, but I looked at  
13 it and I just find out what things are because that came  
14 directly from FCC. And I would have had to talk to Mike  
15 Lehmkuhl to investigate -- you know, to go over it and did  
16 that because by sending it to them at that time would not --  
17 I wouldn't have done that. I would have just found out what  
18 they are and I would have just sent it to them.

19 BY MR. BECKNER:

20 Q All right. So if I understand you, what you're  
21 saying is is that you first talked to Mike Lehmkuhl so you  
22 could understand what this letter is about.

23 A That's correct.

24 Q And then -- and then you sent it to Mr. Price and  
25 Mr. Ontiveros.

1 A Yes.

2 Q Okay. I mean, do you think you would have taken  
3 more than a day or two to do those things?

4 A Well, it all depends. I mean, this letter could  
5 be like the letters that -- it could be one of the letters  
6 that it talks about all the things we talked about before.  
7 If that's the case, I would have probably talked with  
8 Lehmkuhl, go over all the things. And after I -- by that  
9 time, I would have talked verbally with them as I did.

10 They would have known about this letter before  
11 this thing goes in there. That could be nothing but an FYI.  
12 If it's something FYI, it's that maybe it was just because  
13 the date that I sent it to them. Because this thing has a  
14 lot of information in it. And so it prompted them to ask me  
15 what it is or I will have to investigate it prior to sending  
16 it to them.

17 Q I understand that you wanted -- before you sent  
18 them this letter, you wanted to know all you could about  
19 because you expected that they would call you up and have  
20 questions about it.

21 A Exactly.

22 Q And you wanted to be able to answer the questions.

23 A Yes. That's -- and or I would have probably  
24 already talked with them about some of these. It doesn't  
25 mean that we have talked about things and after that I sent

1     them memos. I sent them letters. It's just not that we  
2     never talked and I would send the letter. It's customary we  
3     -- if there were something important, we talked. We talked  
4     about it. And then at some point, the issue will go. And  
5     so I -- that's the answer to that.

6           Q     And as far as you know, you got this directly from  
7     the FCC. This didn't come in on a fax machine to you.

8           A     All I can tell you is -- is it's addressed to me -  
9     -

10           JUDGE SIPPEL: It's addressed to him.

11           THE WITNESS: And it doesn't have any fax numbers  
12     on it.

13           MR. BECKNER: Okay. All right. That's all I  
14     wanted to ask about this exhibit, Your Honor.

15           JUDGE SIPPEL: Can you recall whether or not the -  
16     - the internal fax information that you testified to this  
17     morning was received by you before or after this letter?

18           THE WITNESS: I know, Your Honor, that this letter  
19     was dated the 24th. I don't know when I received it. But  
20     generally the Commission when they send letters like that, I  
21     think they are registered. They send them very fast and I  
22     will get them within a day or so after that.

23           JUDGE SIPPEL: I see.

24           THE WITNESS: And that was around the same time I  
25     got that information.

1 JUDGE SIPPEL: All right. Now, listen to my  
2 question very carefully. The letter is dated April 24. And  
3 my question to you is can you recall whether you received  
4 the internal fax information that you testified to this  
5 morning before or after you received this letter, to the  
6 best of your recollection. Don't use logic. Just use your  
7 recollection.

8 THE WITNESS: Okay. Yes. It would be -- it could  
9 not be before the 24th because when we -- when that  
10 information came in and I talked to Lehmkuhl and we went  
11 back there to the meeting that we had, all of those happened  
12 within a day or so. So it would around -- around this time,  
13 between I would say -- between Tuesday and the Friday of  
14 that particular week that we talk about everything happened  
15 during that time.

16 JUDGE SIPPEL: All right. Did you want to do  
17 anything more with that information?

18 MR. BECKNER: No, Your Honor. I don't think so.

19 JUDGE SIPPEL: All right. That's good. That's  
20 all I wanted to know. You're on, Mr. Weber.

21 MR. WEBER: Thank you, Your Honor.

22 BY MR. WEBER:

23 Q I'd like you to turn again to what has been marked  
24 as TW/CV Exhibit 34 which is that last exhibit in the big  
25 volume.

1           A     Yes, sir.

2           Q     And then starting with the third page which is the  
3 listing of the paths, did you give Mr. Lehmkuhl a particular  
4 list you had in mind when you called him and you wanted him  
5 to investigate? Did you give him this list and tell him to  
6 look up these particular paths?

7           A     No, I didn't give him this list. The list that he  
8 provided was all the paths. The one that I discussed with  
9 him and talk about that was the emission designator path  
10 which was this list plus there were other -- I'm sorry, all  
11 included on this list, but it was less than this. And the  
12 ones -- basically it was those.

13                     The emission designator path was the one that I  
14 recall that I found out and I provided to him. And he was  
15 the one in turn talking to me about -- I recall there were  
16 other paths in addition to what I talked to him about.  
17 There were other paths that he was talking about. At that  
18 time, I told him that why don't you just send me a complete  
19 list then I will know. So this was mostly for my  
20 information as well as knowing exactly how many paths we  
21 were talking about beyond the one that I'm --

22           Q     And do you know what criteria he used to include  
23 other paths?

24           A     We were talking about two -- we were talking about  
25 the one with the emission designator , the path that was

1 including the correction of the emission designator, and  
2 other paths that we study on it during the first quarter of  
3 1995 after January, around that time and any other one that  
4 was done between, again, January and that current date.

5 Q And by done, you mean the initial application  
6 filed?

7 A Coordinated -- application filed or at least I  
8 studied those and I sent it to be filed.

9 Q Did you give copies of this April 28th memo which  
10 is Exhibit 34 to anybody else?

11 A Well, after this date, I consider the general yes,  
12 everybody gets any copy I was speaking with now. I was  
13 speaking to Tony Ontiveros after that and we went over that.  
14 And I used this memo and this information as the start from  
15 that time on because I have a lot of other information that  
16 I work with this list, adding things, subtracting things,  
17 talked with -- to Pepper & Corazzini about it -- about what  
18 is the status. That was the one that started to having a  
19 periodic meeting on how the status of the applications are.

20 Q You say you've added to this list?

21 A Yes, there were -- like, for example, after this  
22 list on July or August when we were doing something, I had  
23 handwritten there to keep -- to make sure that I have it.  
24 That was my own internal list from there on to make sure  
25 nothing has been --



1 MR. BEGLEITER: Mr. Weber, if you want to take a  
2 look at production 017306 and 017307. Is that a recent  
3 production document?

4 MR. WEBER: That was one that we just --

5 JUDGE SIPPEL: I take it that also this TW/CV --  
6 this Number 36 has come from Mr. Nourain's files?

7 MR. WEBER: Yes, yes. I thank you, Mr. Begleiter.

8 BY MR. WEBER:

9 Q Can you recall if you discussed this April 28th  
10 memo with Edward Milstein around the date of this memo?

11 A My only meeting with Edward Milstein is that  
12 meeting I mentioned I recall, prior to that. So I -- I  
13 haven't had a meeting with him.

14 Q Yesterday, you spoke about time lines you assumed  
15 on how long it would take for when you send your information  
16 to COMSEARCH until an authorization can be granted. Yet I  
17 don't think we ever got an answer exactly how long you think  
18 that whole process would have taken. In your mind in the  
19 time frame of 1994-1995, how long did you think it would  
20 take from the time you sent information to COMSEARCH before  
21 an authorization, an STA would have been granted?

22 A It could have been as -- as -- my understanding  
23 was if I do anything expedited, it could have been as quick  
24 as three weeks to, if nothing was expedited, would be within  
25 about a month to 40 days. That's after I got the

1 COMSEARCH -- from the date that I got that COMSEARCH  
2 technical information and I reviewed would be between two  
3 weeks to at some cases the month.

4 So it depends on if I had to expedite so we could  
5 have probably saved some time from COMSEARCH's study. And  
6 then making sure that the STA would have to be filed with  
7 the -- with the actual file. And then try to on the write-  
8 up for that STA tell them we would need it right away so  
9 that way we would probably hopefully expedite it within a  
10 few days rather than a week or two weeks.

11 Q Where did you get this information from that this  
12 is the amount of time it takes?

13 A I was told that well before that that it takes  
14 about 30 days generally if everything goes regularly from  
15 COMSEARCH for a supplemental showing. And you could have it  
16 as early as maybe a week if you put it on an expedited  
17 matter. And with the filing of -- filing the application  
18 and having the STA on it, you could expedite that.

19 And I also found out in some in 1991 or 1992 when  
20 I joined the company that they had files that they had the  
21 filing and they had the STA. The dates were relatively very  
22 close during -- within that time. So -- and I had a  
23 conversation with Pepper & Corazzini a while back before  
24 that time that they told me about their certain -- those are  
25 some of the times that it generally takes to do it.

1           Q     So, I mean, not to characterize your statement,  
2     but I just want to be sure I understand.  You -- you learned  
3     these time frames from both your prior experience in the  
4     field and also from counsel?

5           A     I had no experience in the field on this type of  
6     application.  My only experience before this job was on a  
7     Part 21 type which I was with Locate.  And that was  
8     completely different because that was a temporary fix  
9     authority.  And I was told by the counsel that you could get  
10    that within 24 hours.  STA was completely new term on a  
11    private band and that was the first time I was dealing with  
12    a private band -- private carrier -- private band type of  
13    Part 94.  So no experience before on this particular type of  
14    application.

15          Q     You spoke about signing the STA applications in  
16    blank.  And you've also spoken about yesterday when you were  
17    citing me applications for the licenses in blank.  Did you  
18    sign -- how else -- let me ask it a different way.  How  
19    often did you sign blank STA requests?

20          A     The signing of those was prompted by Pepper &  
21    Corazzini, Mike Lehmkuhl or whoever before that, telling me  
22    that if they were finished with that.  I was signing about  
23    20 or 30 at a time.  I would send it to them.  And when they  
24    were down to about five or six, they would say that why  
25    don't we just have some more sent to us in order to have all

1 the application, everything prepared. So --

2 Q And did you sign STA application requests as often  
3 as you signed the blank applications for the licenses?

4 A I don't recall as much. But I would send them --  
5 every time I would send them -- what I recall is they would  
6 tell me to send both of them at the same time. So I would  
7 just send them -- send them at the same time. And I would  
8 say yes because I was getting STAs and I was getting filings  
9 periodically. So I'm assuming that they should have been  
10 done in the same way.

11 Q When we were talking about the time frames that it  
12 takes to get an authorization, you mentioned that some of  
13 the information came from Pepper & Corazzini. Was that Mike  
14 Lehmkuhl or was that somebody else?

15 A During the -- what dates are you talking about?

16 Q Well, just the information you -- that you used to  
17 determine how long it would take from after you got the  
18 information from COMSEARCH before an authorization could be  
19 granted. Remember, we were just talking about that a few  
20 minutes. And you said that that information came from  
21 Pepper & Corazzini. I was just asking if it was Mike  
22 Lehmkuhl.

23 A It might have been before him. A lot of those  
24 were triggered by the licensing, as I mentioned yesterday,  
25 based on the consolidation that was going to take place by

1 the FCC. And they -- I was told through Pepper & Corazzini  
2 that we were not getting the licenses any more regularly  
3 because they want to consolidate. They have new computers  
4 installed. And, therefore, after I found that out, the  
5 solution was that -- to apply for an STA. And then I'm sure  
6 the conversation, the time line came out; that what could I  
7 do to see how we can work around that since we're not going  
8 to get the licenses anymore. We're going to get the STA  
9 until they consolidate that.

10 So there was discussion with Pepper & Corazzini.  
11 Whether it was Mike Lehmkuhl or not, that happened at --  
12 where that consolidation took place. It might have been --  
13 I think, as I said, if I wanted I could presume I would say  
14 around that time because that was a time then the different  
15 older version licenses were stopping to come in until the  
16 end of '94 when the new version came.

17 MR. WEBER: Thank you. The Bureau has nothing  
18 further.

19 THE WITNESS: Thank you, sir.

20 JUDGE SIPPEL: Do you want to do redirect or do  
21 you want to --

22 MR. BEGLEITER: Well, I was -- I would like to do  
23 redirect. The question is do we do it now or do we do it  
24 after he concludes his testimony. I haven't heard from the  
25 Witness whether he's going to be leaving this afternoon or

1 not. So --

2 JUDGE SIPPEL: Well, I think we better -- yes,  
3 okay. We'll just have to defer on that. We can't decide  
4 anything. We're going to break for lunch and then you all  
5 make a decision -- you being Liberty's side make a decision  
6 along with Mr. Nourain as to whether you want to proceed  
7 with him this afternoon or Mr. Lehmkuhl. I just have one  
8 question or it may end up being two questions.

9 Since your employment with Liberty going back to  
10 1993 -- is that correct?

11 THE WITNESS: Yes, sir.

12 JUDGE SIPPEL: -- did you ever receive any  
13 bonuses?

14 THE WITNESS: I have received -- yes, I have.  
15 There have been bonuses on 1994 -- the end of 1994 and on --  
16 at the end of every year, end of '93. I had a change of  
17 position and promotion. And the end of '94 I received a  
18 bonus.

19 JUDGE SIPPEL: Okay. Now, what was that bonus  
20 based upon? That is, what -- what performance -- what  
21 specific thing or things --

22 THE WITNESS: Well, we --

23 JUDGE SIPPEL: -- justified you to get the bonus?

24 THE WITNESS: Well, based on the performance. And  
25 I guess that at the end of the year, it was a company policy

1 to evaluate every employee same as the one I evaluate the  
2 people working under me and I recommended bonuses for them.  
3 I was evaluated. And based on that evaluation, I received a  
4 bonus -- evaluation for performance.

5 JUDGE SIPPEL: Who did your evaluation?

6 THE WITNESS: I'm sorry?

7 JUDGE SIPPEL: Who did you evaluation?

8 THE WITNESS: Tony Ontiveros and -- in 1994, it  
9 was Tony Ontiveros. Before that, I got a change of salary.  
10 It was still when Mr. McKinnon was there.

11 JUDGE SIPPEL: Would it have been -- did Mr. Price  
12 enter into this at all?

13 THE WITNESS: I didn't directly talk to Mr. Price.  
14 But I'm sure that all the recommendations would go to him  
15 because that was the way that -- the people that worked for  
16 me that I recommended to them, Mr. Ontiveros reviewed that  
17 then he took that down to Mr. Price and the corporate  
18 executives. And then they decided. So I'm sure that he was  
19 -- he was somewhat involved. But I never directly --

20 JUDGE SIPPEL: So you talked about your work with  
21 Mr. Ontiveros?

22 THE WITNESS: Ontiveros and there was an  
23 evaluation form which I filled out.

24 JUDGE SIPPEL: Oh. So you knew that you were  
25 being evaluated when you talked to Mr. Ontiveros about that?

1 THE WITNESS: Oh, yes. The report was an  
2 evaluation report. It would just tell you how the  
3 performance was. It was pretty general. It's the same for  
4 me that it was for technicians. Just the same set of forms.

5 JUDGE SIPPEL: Did it -- did it have anything to  
6 do with the number of paths you got activated at any  
7 particular time?

8 THE WITNESS: I -- I don't -- no, I don't think  
9 so. It was just --

10 JUDGE SIPPEL: Did you ever talk to him about  
11 that?

12 THE WITNESS: I spoke with him that basically it  
13 was an evaluation that -- you know, the amount of the work I  
14 was doing and -- and I -- and my responsibilities. I had a  
15 lot of responsibilities. I was doing from pre-sales all the  
16 way to construction and start of the system. So I was doing  
17 -- as far as the engineering and operation and maintenance,  
18 I was doing much close to 60 to 70 percent of the work for  
19 the company.

20 JUDGE SIPPEL: And how -- but what about  
21 activations? Was that -- was that discussed with you as  
22 being a factor for getting a bonus?

23 THE WITNESS: No. Mainly performance --  
24 performance and how we do that. Of course, that -- the -- I  
25 -- if I understand your question, Your Honor, is that was it



1 -- did they look at it to see how many subscribers we have a  
2 certain year or how many we don't have. That evaluates  
3 that. If it is, I don't recall. But all I know is that my  
4 work was pretty much the same. I turned on close to about -  
5 - I mean, I constructed about close to 50 systems a year,  
6 average about four a week. And that was consistent during  
7 the time that I was there before '94 or after that.

8 JUDGE SIPPEL: You sound like you're getting very  
9 logical about this answer.

10 THE WITNESS: Yes, sir.

11 JUDGE SIPPEL: I'm just trying to get what your  
12 understanding was, what your recollection was of the  
13 practice with respect to your being considered for a bonus.  
14 And that's all.

15 THE WITNESS: Purely -- purely for performance.  
16 It was all for performance.

17 JUDGE SIPPEL: Did you receive any -- any  
18 accolades, any favorable comments over the number of sites  
19 that you got activated?

20 THE WITNESS: No, sir.

21 JUDGE SIPPEL: All right. Anybody else have  
22 anything on that? That's it. Now, what we're going to do  
23 is we're going to break for lunch. And you're either going  
24 to be back here on the stand or you're going to be on your  
25 way to New York. But you're under oath. You'll still